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General Assembly

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Committee on the Peaceful Uses of Outer Space
Legal Subcommittee
Forty-first session
Vienna, 2-12 April 2002

Provisional agenda[1]

1. Opening of the session and adoption of the agenda.
2. Statement by the Chairman.
3. General exchange of views.
4. Status and application of the five United Nations treaties on outer space.
5. Information on the activities of international organizations relating to space law.
6. Matters relating to:
   (a) The definition and delimitation of outer space;
   (b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.
7. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

[1] In paragraph 5 of its resolution 56/51 of 10 December 2001, the General Assembly endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, at its forty-first session, taking into account the concerns of all countries, in particular those of developing countries, should consider items 3, 4, 5 and 6 as regular items of the agenda, should consider items 7 and 8 as single issues and items for discussion and should consider item 9 in accordance with the work plan adopted by the Committee. In paragraph 6 of the same resolution, the Assembly noted that the Subcommittee, at its forty-first session, would submit proposals to the Committee for new items to be considered by the Subcommittee at its forty-second session, in 2003.

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8. Consideration of the draft convention of the International Institute for the Unification of Private Law (Unidroit) on international interests in mobile equipment and the preliminary draft protocol thereto on matters specific to space property.

9. Review of the concept of the "launching State".

10. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-second session.

Annotations

4. Status and application of the five United Nations treaties on outer space

At its fortieth session, in 2001, the Legal Subcommittee agreed that a working group should be established on this item, the terms of reference of which would include the status of the treaties, review of their implementation and obstacles to their universal acceptance, as well as promotion of space law, especially through the United Nations Programme on Space Applications (A/AC.105/763 and Corr.1, para. 118).

In paragraph 7 of its resolution 56/51 of 10 December 2001, the General Assembly agreed that the Legal Subcommittee should establish the working group with the terms of reference as agreed upon by the Subcommittee at its fortieth session, to be convened for three years, from 2002 to 2004.

5. Information on the activities of international organizations relating to space law

In the discussion of this item, member States may bring to the attention of the Legal Subcommittee any information on the activities of international organizations relating to space law. In accordance with the agreement reached at the fortieth session of the Legal Subcommittee, international organizations were invited to report to the Subcommittee on their activities (A/AC.105/763 and Corr.1, para. 38).

In paragraph 8 of its resolution 56/51, the General Assembly noted that the Committee on the Peaceful Uses of Outer Space would invite interested member States to designate experts to identify which aspects of the report on the ethics of space policy by the World Commission on the Ethics of Scientific Knowledge and Technology (COMEST) of the United Nations Educational, Scientific and Cultural Organization might need to be studied by the Committee and to draft a report, in consultation with other international organizations and in close liaison with the Commission, with a view to making a presentation on the matter at the forty-second session of the Legal Subcommittee, in 2003, under the agenda item entitled "Information on the activities of international organizations relating to space law".

6. Matters relating to:

(a) The definition and delimitation of outer space

(b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

In paragraph 9 of its resolution 56/51, the General Assembly noted that, in accordance with the agreement reached by the Legal Subcommittee at its thirty-ninth session, in 2000, on the question of the character and utilization of the geostationary orbit, the Legal Subcommittee would reconvene its working group on that item only to consider matters relating to the definition and delimitation of outer space.

8. Consideration of the draft convention of the International Institute for the Unification of Private Law (Unidroit) on international interests in mobile equipment and the preliminary draft protocol thereto on matters specific to space property

In paragraph 10 of its resolution 56/51, the General Assembly endorsed the agreement of the Legal Subcommittee concerning the establishment of an ad hoc consultative mechanism to review the relevant issues. The Legal Subcommittee at its fortieth session agreed to establish an ad hoc consultative mechanism to review the issues relating to the item, in accordance with a proposal introduced by the delegation of Belgium. The mechanism would make it possible to undertake preparatory work and to hold informal consultations during the forty-fourth session of the Committee on the Peaceful Uses of Outer Space, in June 2001, and, if necessary, inter-sessional consultations at the convenience of interested member States, with the participation of the representatives of the secretariat of the Subcommittee, and to which representatives of the secretariat of the International Institute for the Unification of Private Law (Unidroit) and relevant specialized international organizations might also be invited, with a view to facilitating the work of the Subcommittee in examining in detail the numerous issues relating to the topic within a time frame appropriate to the importance of the initiative. The mechanism would operate under the aegis of the Legal Subcommittee and the results of consultations undertaken through the mechanism would be reported to the Subcommittee at its forty-first session for its consideration and endorsement, as it deemed appropriate (A/AC.105/763 and Corr.1, para. 94).

9. Review of the concept of the "launching State"

In paragraph 11 of its resolution 56/51, the General Assembly noted that the Legal Subcommittee would reconvene its working group to consider this item.

In accordance with the work plan adopted by the Committee on the Peaceful Uses of Outer Space at its forty-second session, in 1999, this item will be considered by a working group during a three-year period beginning in 2000. In 2002, the final year of the work plan, the Subcommittee should review measures to increase adherence to and promote the full application of the Convention on International Liability for Damage Caused by Space Objects and the Convention on Registration of Objects Launched into Outer Space.[2]

[2] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 20* and corrigendum (A/54/20 and Corr.1), para. 114.

Annex

Organization of work

1. At its fortieth session, in 2001, the Legal Subcommittee agreed that a flexible organization of work should continue to serve as the basis for organizing its work with a view to making fuller use of the conference services available (A/AC.105/763 and Corr.1, para. 10).

2. At the close of the afternoon meeting on 2 April 2002, a symposium entitled "Prospects for Space Traffic Management", sponsored by the International Institute of Space Law and the European Centre for Space Law, will be held.

3. An indicative schedule of work is given below.

Indicative schedule of work[a]

Date	*Morning*	*Afternoon*
Week of 2-5 April 2002		
Tuesday, 2 April	Item 1. Opening of the session and adoption of the agenda Item 2. Statement by the Chairman Item 3. General exchange of views	Item 3. General exchange of views Item 4. Status and application of the five United Nations treaties on outer space Symposium: Prospects for Space Traffic Management
Wednesday, 3 April	Item 3. General exchange of views Item 4. Status and application of the five United Nations treaties on outer space	Item 4. Status and application of the five United Nations treaties on outer space Item 7. Nuclear power sources Item 9. Review of the concept of the "launching State"
Thursday, 4 April	Item 4. Status and application of the five United Nations treaties on outer space Item 7. Nuclear power sources Item 9. Review of the concept of the "launching State"	Item 4. Status and application of the five United Nations treaties on outer space Item 9. Review of the concept of the "launching State"
Friday, 5 April	Item 9. Review of the concept of the "launching State"	Item 9. Review of the concept of the "launching State"

[a] At its thirty-eighth session, in 1995, the Committee on the Peaceful Uses of Outer Space agreed that the practice of allocating specific agenda items to particular meetings at a session should be ended and that, to assist in their planning, member States would continue to be provided with an indicative schedule of work, which would be without prejudice to the actual timing of consideration of specific agenda items (*Official Records of the General Assembly, Fiftieth Session, Supplement No. 20* (A/50/20), paras. 168 and 169 (b)).

Date	*Morning*	*Afternoon*
Week of 8-12 April 2002		
Monday, 8 April	Item 5. Information on the activities of international organizations relating to space law	Item 5. Information on the activities of international organizations relating to space law
	Item 6 (a). The definition and delimitation of outer space	Item 6 (a). The definition and delimitation of outer space
	Item 6 (b). The character and utilization of the geostationary orbit	Item 6 (b). The character and utilization of the geostationary orbit
Tuesday, 9 April	Item 5. Information on the activities of international organizations relating to space law	Item 5. Information on the activities of international organizations relating to space law
	Item 6 (a). The definition and delimitation of outer space	Item 6 (a). The definition and delimitation of outer space
	Item 6 (b). The character and utilization of the geostationary orbit	Item 6 (b). The character and utilization of the geostationary orbit
	Item 8. Consideration of the draft Unidroit convention and the draft protocol thereto	Item 8. Consideration of the draft Unidroit convention and the draft protocol thereto
Wednesday, 10 April	Item 8. Consideration of the draft Unidroit convention and the draft protocol thereto	Item 8. Consideration of the draft Unidroit convention and the draft protocol thereto
	Item 10. Proposals to the Committee on new agenda items	Item 10. Proposals to the Committee on new agenda items
Thursday, 11 April	Item 8. Consideration of the draft Unidroit convention and the draft protocol thereto	Item 8. Consideration of the draft Unidroit convention and the draft protocol thereto
	Item 10. Proposals to the Committee on new agenda items	Item 10. Proposals to the Committee on new agenda items
		Adoption of the reports of the working groups on the status and application of the five United Nations treaties on outer space, on the definition and delimitation of outer space and on the review of the concept of the "launching State"
Friday, 12 April	Adoption of the reports of the working groups on the status and application of the five United Nations treaties on outer space, on the definition and delimitation of outer space and on the review of the concept of the "launching State"	Adoption of the report of the Legal Subcommittee

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Committee on the Peaceful Uses of Outer Space
Legal Subcommittee
Forty-first session
Vienna, 2-12 April 2002
Item 5 of the provisional agenda*
Information on the activities of international organizations relating to space law

Information on the activities of international organizations relating to space law

Note by the Secretariat

In accordance with the agreement reached at the fortieth session of the Legal Subcommittee (A/AC.105/763, para. 38) and endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-fourth session,[1] the Secretariat invited international organizations to submit reports on their activities relating to space law for the information of the Subcommittee. The present document contains a compilation of the reports received by 21 January 2002.

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[1] *Official Records of the General Assembly, Fifty-sixth session, Supplement No. 20* and corrigendum (A/56/20 and Corr.1), para. 148.

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European Centre for Space Law

1. In 2001, the European Centre for Space Law (ECSL) pursued its mission to promote and develop space law among the European Space Agency (ESA) member States. The new developments are listed below.

1. Modifications of the Charter of the European Centre for Space Law

2. The constitutive Charter of ECSL was modified by its members at the biennial General Assembly on 15 June 2001. Henceforth, the ECSL Chairman will not automatically be the ESA Legal Adviser. The members of the Board will elect the Chairman and Vice-Chairman from among themselves.

2. Space debris

3. ECSL informed the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, at its fortieth session, that it would undertake a study on the legal aspects of space debris. The first stage of the study process would be to collect points of view and proposals from selected experts in law and science by means of a questionnaire. ECSL would report its findings to the present session of the Legal Subcommittee under the item entitled "Information on the activities of international organizations relating to space law". This action was welcomed by the Committee on the Peaceful Uses of Outer Space.

3. Space Law Workshop

4. With reference to the mandate of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space concerning the promotion of space law, the Royal Centre for Remote Sensing of Morocco and ECSL were scheduled to organize a two-day workshop on space law in Rabat, Morocco, on 14 and 15 February 2002. The workshop was intended for space professionals (not only for lawyers). Invitations were also sent to representatives in Rabat of African francophone member States of the Committee.

4. International Institute of Space Law/European Centre for Space Law

5. As in previous years, an International Institute of Space Law (IISL)/ECSL symposium was held on the first day of the fortieth session of the Legal Subcommittee; the 2001 topic was dispute settlement methods. At the forty-first session, a Symposium on the "Prospects for Space Traffic Management" is planned.

5. Summer course

6. ECSL organized the tenth summer course on space law and policy in collaboration with the University of Nice, France. Some 45 students from 11 member States benefited from a two-week intensive course on space law and the law of space applications (telecommunications, remote sensing, launching activities, and so forth). The subject of the moot case in which the students participated was developed in cooperation with Arianespace. Students represented different countries in a moot negotiation of an international code of conduct for launching activities. The proceedings were due to be published in November 2001.

6. Practitioners' Forum 2001

7. Every year ECSL organizes a practitioners' forum, a one-day event for professionals on current space law. The 2001 Practitioners' Forum, on private space law towards evolution of activities in outer space, was held on 16 November at ESA headquarters. As the convention of the International Institute for the Unification of Private Law (Unidroit) on international interests in mobile equipment and the preliminary draft protocol thereto on matters specific to space property were included in the agenda of the fortieth session of the Legal Subcommittee, it was felt that promoting awareness of the protocol among European space lawyers and practitioners at the Forum was desirable. The General Secretary of Unidroit, academics and representatives of the ministries of justice, banks and insurance companies explained and discussed the importance of the Unidroit protocol.

7. Colloquium

8. ECSL organized, in collaboration with the Faculty of Law of the University of Paris XI (Sceaux), the first Space Law Day. The University hopes to repeat the formula for a yearly one-day event open to students, academics and practitioners and devoted to a particular subject. In 2002, the topic will be legal issues of the International Space Station. It is hoped that Space Law Day will meet with success and become an established annual event.

8. The Manfred Lachs Space Law Moot Court Competition

9. The European preliminaries of the tenth Manfred Lachs Space Law Moot Court Competition of IISL were organized at the University of Paris XI the day before Space Law Day (see para. 8). Usually held at ESA headquarters, they were held at the University in order to promote the event and space law in general among students.

10. ECSL will repeat the experience by organizing the next preliminaries in Spain, at the University of Jaen, on 14 March 2002. They will also be followed by a one-day colloquium, on the commercialization of space activities and on the International Space Station.

9. Unidroit initiative

11. ESA/ECSL took an active part in the discussions of the Unidroit Space Working Group, held in Evry, on 3 and 4 September 2001, in the first meeting of the informal consultation mechanism of the Legal Subcommittee, held in Paris on 10 and 11 September 2001, and in the preparation for the second one, held in Rome on 28 and 29 January 2002.

10. Ethics and space law

12. ECSL is following with great interest the question of ethics and space activities and is establishing contact with the World Commission on the Ethics of Scientific Knowledge and Technology (COMEST) of the United Nations Educational, Scientific and Cultural Organization to participate in a legal study that will be carried out by experts at the invitation of the Committee on the Peaceful Uses of Outer Space.

11. National points of contact

13. In 2001 a new national point of contact for ESA programmes was established in Austria. Thanks to the efforts of the Austrian Ministry of Transport, the University of Graz became the Austrian ECSL national point of contact. A meeting with the Austrian space law community planned for the beginning of 2002 was to launch the promotion of space law in Austria. Similar efforts were being pursued in Belgium and Portugal.

12. ECSL newsletter

14. ECSL continued to publish its *Newsletter*, which contains articles on legal issues and other topics. It remains a useful source of information, not only on developments in space law, but also on events (conferences, workshops and so forth) on the law of space and its applications being held around the world.

European Space Agency

1. Below is a summary of ESA activities in 2001 relating to outer space law. ESA continued to be represented on the Legal Subcommittee and at its working groups (in particular the working group on the concept of the "launching State") and to present its views on some items.

2. The space law topics on which ESA focused particular attention were:

(a) The improvement of registration procedures for space objects. The administrative instruction has been updated and should be signed soon;

(b) The promotion of space law (in addition to the ECSL activities). ESA responded favourably to the requests of the Government of Morocco and a workshop on space law was scheduled to be held in Rabat, Morocco, on 14 and 15 February 2002;

(c) Consideration of the compatibility with space law of the draft convention on international interests in mobile equipment and the preliminary draft protocol on matters specific to space assets drawn up by Unidroit. At the invitation of the Government of France, the first meeting of the informal consultation mechanism agreed upon by the Committee on the Peaceful Uses of Outer Space in June 2001 was held on 10 and 11 September 2001 at ESA headquarters. ESA actively supported the preparations for that meeting, as well as those for the second one, which was scheduled to be held in Rome on 28 and 29 January 2002;

(d) The "launching State" concept. This constitutes a major issue, in particular at the time of revising the agreement between the Government of France and ESA for the use of the Guiana Space Centre facilities and the launch site at Kourou;

(e) Ethics and space activities. ESA remains in close contact with COMEST and a number of States in order to develop ideas and a plan of action on this topic;

(f) Education, space debris (see the ECSL report).

3. Finally, ESA maintains contact with the International Astronomical Union in preparation for a legal study related to the protection of "dark sky" for astronomical observations.

International Law Association

Space Law Committee

1. As in previous years, the Space Law Committee of the International Law Association (ILA) was invited to report to the forty-first session of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space. Thus, the following report will focus on the progress of work over the last 12 months, with a brief reference to previous contributions and to topics kept under permanent review by the Committee.

2. Since the forty-eighth ILA conference, held in New York in 1958, the Space Law Committee has met at regular intervals. It has become increasingly involved in the many legal and related aspects concerning the law of outer space and, in so doing, special attention has been drawn to the various questions listed each year on the agenda of the Legal Subcommittee. ILA has made contributions on questions relating to the delimitation and demarcation of outer space, telecommunication satellites, the meaning and scope of the principle of non-appropriation in article II of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (the "Outer Space Treaty", General Assembly resolution 2222 (XXI), annex) of 1967, international responsibility and liability for space activities, remote sensing, direct broadcast, the military uses of outer space and other topics addressed in recent years, to which reference will be made later.

3. Since November 2001, the Committee has been chaired by Maureen Williams and Stephan Hobe of Cologne University has served as General Rapporteur. The members of the Space Law Committee are well-known international lawyers, among whom mention should be made of Karl-Heinz Böckstiegel, who chaired the ILA Space Law Committee between 1989 and 2001. Mr. Böckstiegel and his team of experts from Cologne University are responsible for the successful conclusion of Project 2001 on the legal framework for the commercial uses of outer space, in which many Committee members participated. Other members of the Committee include Vladimir Kopal, Chairman of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, Nandasiri Jasentuliyana, President of IISL and former Director of the Office for Outer Space Affairs of the United Nations Secretariat and Sir Robert Jennings and Gilbert Guillaume, past and present presidents, respectively, of the International Court of Justice.

4. In the last decade, ILA successively addressed issues including space debris, dispute settlement and the ever-increasing commercial aspects of space activities resulting from the growth of private investment in outer space. The last report, submitted to the sixty-ninth conference, held in London in July 2000, focused on whether it was necessary to amend certain provisions of the space treaties in force to make them more consistent with the current international context. The next report, which deals with the need for changes to the United Nations instruments on space

law, will be submitted to the seventieth conference, to be held in New Delhi in April 2002.

5. All three topics are closely linked to the development of a legal framework for the commercial use of outer space, which was the main objective of Project 2001. On these matters, ILA has worked in close contact with the Committee on the Peaceful Uses of Outer Space, where it has observer status and to which the progress of ILA work is reported annually, along with IISL, ECSL, the Ibero-American Institute of Air and Space Law and other related institutions of regional and national scope, both government and private.

6. The work of the ILA Space Law Committee is described in the ILA reports, which are published, unabridged and in book format, shortly after each biennial conference. The reader is therefore referred to that primary source for further details. The present summary will therefore be confined to the three latest topics addressed by the Committee, with emphasis on present ILA work, namely, the legal aspects of commercial space activities.

1. Space debris

7. The work of the Space Law Committee on this topic resulted in an international instrument known as the Buenos Aires International Instrument on the Protection of the Environment from Damage caused by Space Debris. It was adopted without dissent by the sixty-sixth conference of ILA, held in Buenos Aires in 1994. Given the growth of commercial space activities, the importance of having a legal framework or at least a set of rules or guidelines, on the matter is beyond question. It would therefore appear timely for the question to be included in the agenda of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

8. The Buenos Aires Instrument includes a list of definitions and descriptions of contamination (human modification of the environment by the introduction of undesirable elements or by the undesirable use of those elements), pollution and space debris (the latter more of a description than a definition, including a non-exhaustive list of assumptions). It also lays down a number of obligations, or duties, of a general and specific character, includes rules on international responsibility and liability, and dispute settlement, and provides for both compulsory and non-compulsory mechanisms to that end. Its provisions have been discussed in depth by several institutions, such as IISL, and, in particular, in 1999, on the occasion of the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III),[2] by the Workshop on Space Law in the Twenty-first Century, which devoted one of its working sessions to the topic. On 9 November 2001, at a Conference on the Commercial Implications of Space Debris, organized by the International Mobile Satellite Organization (Inmarsat) in London (as the ECSL point of contact), one of the recommendations was to take the ILA Instrument on Space Debris as the basis for further international discussion concerning the adoption of a convention on the subject.

[2] See *Report of the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space, Vienna, 19-30 July 1999* (United Nations publication, Sales No. E.00.I.3).

2. Dispute settlement

9. The terms of reference of the ILA Committee on this subject were to determine the consistency of the ILA draft convention on the settlement of disputes related to space activities, adopted in Paris in 1984, with the recent developments in this field. The 1984 draft was prepared by Mr. Böckstiegel, in consultation with the members of the Committee. In 1998, at the sixty-eighth ILA conference, which took place in Taipei, Taiwan Province of China, a revised text of a draft convention on the settlement of disputes related to space activities was approved unanimously and subsequently introduced and explained at the following session of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space and in the Committee itself by the Chairman, Mr. Böckstiegel.

10. Only minor changes were needed to adapt the 1984 draft convention to the present world scenario, in particular:

(a) Article 10, which remains unchanged in the revised version and leaves the door open for private entities to be parties to the dispute settlement procedures established for sovereign States by the convention;

(b) The provisions that envisage the creation of an international tribunal for space law (part VI of the draft convention), which were simplified after the 1998 revision (for example, the number of judges was reduced, as well as some time limits laid down in the 1984 text);

(c) The rules on dispute settlement, mainly in sections II and III of the draft convention, which lay down the option for non-binding and binding settlement procedures. The underlying idea of the Committee was to start at a low level of compulsion, at least in the initial stages.

11. There is still some controversy concerning the exclusion clause included in article 1 of the convention. Opinions differ between a wish to retain the clause and a preference for deleting it altogether. In addition to those extreme positions, the concept provides a wide range of in-between possibilities, such as agreeing on a restricted list of excluded topics, or having a detailed list of subjects for which the tribunal would be competent.

12. In the modern world, the need for more effective procedures regarding dispute settlement related to space activities is beyond discussion, in particular in view of the growth of commercial activities in space. The matter was discussed extensively during the Workshop on Space Law in the Twenty-first Century referred to above, held within the framework of UNISPACE III, where different aspects of the ILA draft convention were addressed at the various sessions of the Conference. In the aftermath of its adoption, the draft convention was the object of research projects of varying scope within various institutions.

13. Strongly supported by the conference of the Ibero-American Institute of Air and Space Law, held in Panama in 1999, and by other regional and national meetings, the 1998 draft convention has been subjected to careful analysis in the framework of a number of research projects in different countries. The University of Buenos Aires, for example, recently concluded a task of the kind where extensive comments were made, and a few suggestions added, to the provisions of the draft convention. As indicated above, this is one of the topics under permanent study by

the ILA Space Law Committee and was a common denominator to all the study groups involved in Project 2001.

3. Commercial space activities

14. The first ILA report on this topic was submitted to the sixty-ninth ILA conference, held in London in July 2000. However, the commercial aspects of space activities arose constantly, long before and with increasing frequency, when previous reports on space debris and dispute settlement were in preparation.

15. The first step leading to the final text of the London report consisted of the re-examination of the space treaties in view of commercial space activities. With that in mind, four special rapporteurs were appointed to deal respectively with the Outer Space Treaty, the Convention on International Liability for Damage Caused by Space Objects (the "Liability Convention", resolution 2777 (XXVI), annex) of 1972, the Convention on Registration of Objects Launched into Outer Space (the "Registration Convention", resolution 3235 (XXIX), annex) of 1976 and the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (the "Moon Agreement", resolution 34/68, annex) of 1984.

16. Following the first reading of the four introductory reports, a number of comments and suggestions were sent in by Committee members and other specialists. As on previous occasions, the Committee had the valuable assistance of three scientific consultants, namely, Dieter Rex (Germany); Lubos Perek (Czech Republic) and Humberto Ricciardi (Argentina). On that basis, the General Rapporteur prepared a consolidated text for submission to the London conference, which adopted it without dissent. The interdisciplinary approach has always been a striking feature of the work of the ILA Space Law Committee.

17. The London report took into account proposals and views stemming from other recent meetings on the subject, for example:

(a) The Workshop on Space Law in the Twenty-first Century (UNISPACE III, Technical Forum, 1999);[3]

(b) The 1999 Amsterdam colloquium of IISL;

(c) The various meetings related to Project 2001 (Cologne University);

(d) The results of other recent research projects on the subject conducted by the General Rapporteur of the ILA Space Law Committee at the University of Buenos Aires;

(e) The conclusions of the twenty-ninth conference of the Ibero-American Institute of Air and Space Law held in Panama in 1999, and other regional and national meetings.

18. The conclusions of the Committee on the revision of the four above-mentioned space treaties, with a view to establishing their consistency with the present state of the art, are summarized below:

[3] *Proceedings of the Workshop on Space Law in the Twenty-first Century: UNISPACE III Technical Forum July 1999* (United Nations publication, Sales No. E.00.I.5).

(a) *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies*. The outer Space Treaty was considered flexible enough, on general lines, to serve as a basis for governing commercial activities in space today. However, the clarification of certain terms seemed appropriate, and this was one of the points dealt with in the report to the seventieth ILA conference, held at New Delhi in 2001. Matters of concern were, for instance, the definition of the terms "outer space" and "space object", and the relationship of the latter to the definition of "space debris" in the United Nations technical report on space debris of 1999 (A/AC.105/720). The interpretation of the "common benefit" clause is, similarly, considered obscure. On this point two interesting proposals have recently been received from one of the Committee members, Carl Q. Christol, who draws a line between the exploitation carried out by private entities and by subjects of public law, in the light of the common benefit principle. Articles VI and VII of the Treaty, referring respectively to international responsibility for national activities in outer space and international liability for damage caused by space activities, are viewed by the Committee as closely related to the commercial aspects of the activity. Article VI is, indeed, strongly linked to a possible commitment of States to enact national laws concerning authorization and supervision of the activities of private enterprises in the area. Some of the Committee members, led by Mr. Kopal, advocated an interpretation along the lines of article 139 of the United Nations Convention on the Law of the Sea,[4] which refers to activities on the seabed and ocean floor beyond national jurisdiction and liability for damage. Yet, on the whole, the Committee felt that the Treaty should remain untouched. There was an underlying concern that, should amendments be introduced, with all the complexities involved in that possibility, it might result in the weakening of its long-standing principles. A separate protocol or code of conduct or General Assembly resolution was considered a more realistic course of action. The dispute settlement procedures laid down in the Treaty are no doubt insufficient in a world where commercial space activities are multiplying rapidly. On that question, the ILA Space Law Committee referred to the revised text of a draft convention on the settlement of disputes related to space activities (art. 10), mentioned above, which opened the possibility for private entities to be parties to the system laid down for sovereign States. To address those questions, the Special Rapporteur on that topic, Mr. Hobe, suggested the adoption of a separate protocol to the Outer Space Treaty, which was included in the Committee's report to the New Delhi conference;

(b) *Convention on International Liability for Damage Caused by Space Objects*. The definition of damage in article I of the Liability Convention was questioned by some of the members of the ILA Space Law Committee and by other specialists. This was another point discussed in the report to the New Delhi conferences. Opinions were divided between those who considered the definition wide enough to be acceptable in the current situation and the advocates of changes to include damage caused by space debris. As indicated earlier, this subject was dealt with by the Committee in the early 1990s and resulted in a draft international instrument covering damage caused by space debris. One of the ILA scientific consultants, Mr. Perek, has insisted on the importance of making States responsible

[4] *Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

for national activities in space in very precise terms, the main reason being that the orbit of commercial satellites in geostationary orbit cannot always be changed to direct them to "junkyards" owing to pressure from shareholders to use the satellite to the very end of its active life. Concerning the applicable law (art. XII of the Convention), most Committee members agreed that it was concerned exclusively with public international law and did not raise a problem of conflict of laws. Furthermore, the principles of justice and equity were less vague and obscure in 2001 than was contended, sometimes, by part of the doctrine. The obligation to pay full compensation, *restitutio in integrum*, was considered one of the greatest achievements of the Convention. Article XII should therefore remain unchanged. On the question of dispute settlement, the Committee fully supported the proposal made by the Austrian delegation to the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space in 1998, that States should be encouraged to avail themselves of paragraph 3 of resolution 2777 (XVI) and accept, on the basis of reciprocity, the binding nature of the Claims Commission awards. This is a reasonable and realistic solution. It is a retreat on the insistence for compulsory procedures, but certainly not a retreat on the objective of having procedures of the kind within the context of the Liability Convention at some future stage;

(c) *Convention on Registration of Objects Launched into Outer Space*. The Registration Convention is, of course, less related to the commercial aspects of space activities than the preceding treaties. However, it could perhaps be adjusted to bring its text more into harmony with the present stage of exploitation of outer space. That was another issue on the agenda of the New Delhi conference. The ILA Committee agreed, in general, with the view that all national registries kept by the launching State should be unified as much as possible. As the Special Rapporteur on this Convention, Mr. Kopal, observed, articles II, III and IV of the Convention were in need of revision to ease the identification of the launching States as well as other entities involved in the activity. On that question, the Special Rapporteur held the view that the dual registration system should be able to provide enough information on the characteristics and extent of space activities that were relevant to the purposes of registration. Those thoughts were in line with one of the conclusions from the eighth session of the Workshop on Space Law in the Twenty-first Century (UNISPACE III, Technical Forum), which called for better implementation of the Registration Convention, which should provide more detailed information on space debris. Having set aside the idea of introducing amendments to the Registration Convention, the remaining possibilities would be either a separate protocol, that is to say, a binding instrument, or a General Assembly resolution containing guidelines for States parties on the interpretation and application of the provisions in question;

(d) *Agreement Governing the Activities of States on the Moon and Other Celestial Bodies*. One of the most controversial provisions of the Moon Agreement is article 11. All in all, the Committee felt that the instrument required more than minor amendments to be consistent with modern reality. Therefore, and contrary to the line of thought underlying the previous treaties, ILA did not favour keeping the Moon Agreement in its current reading. Concerning possible improvements to the Moon Agreement, most members of the ILA Committee had in mind the sharp disagreement surrounding Part XI of the Convention on the Law of the Sea dealing with the seabed and ocean floor beyond the limits of national jurisdiction. Those provisions were submitted to further negotiation, which resulted in the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the

Law of the Sea of 1994. That seemed to be the only viable solution. The terms of reference of the ILA Space Law Committee for the next conference include a study of the reasons for the poor ratification of the Moon Agreement. That question was dealt with in another chapter of the report of the ILA Committee to the New Delhi conference. Among the various proposals, some considered that the wording "common heritage of mankind" should be replaced with "the common concern of all mankind". The Special Rapporteur, Frans von der Dunk, suggested going back to the words "province of all mankind". Similarly, a number of amendments were proposed by the Special Rapporteur to the "international regime" to be established for the exploitation of the natural resources of the Moon.

19. These were, briefly, some of the most recent results and future targets of the ILA Committee. One of the thorniest issues was the clarification of certain terms to enable progress to be made towards precise proposals on possible amendments to the United Nations space law instruments in view of commercial space activities. Gilbert Guillaume provided some useful information on that point. The source was the *Dictionnaire de droit international public*, edited in Brussels by Mr. Jean Salmon and to which academics of note contributed, which greatly facilitated the production of "concrete proposals", in the words of the London 2000 mandate, for the report to the ILA conference in April 2002.

World Intellectual Property Organization

1. History and mandate

1. The World Intellectual Property Organization (WIPO) is an intergovernmental organization and one of the 16 specialized agencies of the United Nations. WIPO is responsible for the promotion of the protection of intellectual property throughout the world through cooperation among States and, where appropriate, in collaboration with other international organizations and for the administration of various treaties dealing with intellectual property rights. The number of States members of WIPO was 178 on 6 February 2002.

2. General activities

2. The main activities of WIPO consist of the establishment of international norms and standards in the field of intellectual property; the administration of treaties that embody such norms and standards, as well as treaties that facilitate the filing of applications for the protection of inventions, trademarks and industrial designs; and providing industrial property information. WIPO also carries out a substantial programme of legal and technical assistance to developing countries and countries with economies in transition. In addition, the WIPO Arbitration and Mediation Centre provides services to meet the need for quick and inexpensive ways of settling commercial disputes involving intellectual property.

3. Activities relating to space law

3. During the assemblies of WIPO in September 2001, the member States supported the Director-General's proposal for a WIPO patent agenda, which would include worldwide consultations among Governments and users of the patent system on the development of a strategic blueprint for the future evolution of the

international patent system. The WIPO patent agenda would complement and strengthen ongoing patent-related projects such as the draft substantive patent law treaty and the reform of the Patent Cooperation Treaty. The draft substantive patent law treaty, which was designed to harmonize a number of basic legal principles that underpin the grant of patents in different countries of the world, was discussed by member States after the successful conclusion of the Patent Law Treaty in June 2000. Although those activities covered the protection of inventions in general, they were also relevant to the protection of intellectual creations relating to outer space activities.

4. In addition, WIPO has been involved in the discussions concerning the protection of intellectual property in outer space for a number of years. It is recognized that the protection of intellectual property rights plays an essential role in the development and transfer of space technology under the current political and economic environment, which has resulted in shifting space activities towards commercial opportunities and privatization. The programme and budget for the biennium 2002-2003, approved by member States, included the consideration of the measures to take and the form to give to any conclusions member States might draw on the protection of industrial property in outer space.